

Amendment No. 1 to SB1534

Beavers  
Signature of Sponsor

**AMEND Senate Bill No. 1534**

**House Bill No. 1258\***

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 37, Chapter 3, is amended by adding a new part thereto:

Section 37-3-801.

This part shall be known and may be cited as the "Tennessee Second Look Commission".

Section 37-3-802.

(a) In order to ensure that child sexual abuse cases are handled in a manner that provides adequate protection to the children of this state, there is created the Tennessee second look commission. The commission shall be administratively attached to the administrative office of the courts, but for all other purposes other than administration, shall be considered independent.

(b) The commission shall review a representative sampling from the types of cases in this state that are described in subsection (c). The commission's findings and recommendations shall address all stages of a child sexual abuse case from initial reporting through the decision of whether to prosecute the report, including, but not limited to, the following:

(1) The reporting, investigation and referral of alleged child sexual abuse cases by state agencies and others;

(2) The risk of child sexual abuse victims being returned to the custody of the child's abuser or placed by the state in an environment where the child is at risk of being sexual abused a second or subsequent time;

(3) The procedures used by the juvenile court and courts exercising juvenile court jurisdiction regarding all aspects of child sexual abuse cases;

(4) The laws, rules, or guidelines used to determine whether or not an alleged perpetrator of child sexual abuse is to be prosecuted;

(5) The causes of child sexual abuse in Tennessee and any preventative measures that would reduce the number of child sexual abuse cases in this state;

(6) The manner in which child sexual abuse data is collected and used by multiple agencies within the state; and

(7) The representation provided to child sexual abuse victims, including but not limited to, representation provided by attorneys, guardians and advocates.

(c) The commission shall review juvenile court cases or cases from courts exercising juvenile court jurisdiction where:

(1) The department of children's services filed a petition pursuant to title 37, chapter 1, part 1, alleging that the child is dependent and neglected as defined in § 37-1-102(b)(12)(G), and such allegations were based on child sexual abuse as defined in § 37-1-602(a)(3)(B);

(2) The court made any of the dispositions listed in § 37-1-130(a); and

(3) The department filed a subsequent petition as described in subdivision (c)(1)(A) involving the same victim but based on a separate set of facts.

(d) The commission may:

(1) Promulgate bylaws to provide for the election of commission officers, establishment of committees, meetings, and other matters relating to commission functions;

(2) Request and receive the cooperation of other state departments and agencies in carrying out the duties of this part; and

(3) Hold hearings, call witnesses to testify, conduct research and other appropriate activities.

(e)

(1) No later than January 1, 2010, the commission shall submit a report regarding the development of protocol for the collection of information regarding the representative sampling of cases described in subsection (c). No later than January 1, 2011, the commission shall submit a report regarding its findings and recommendations regarding whether child sexual abuse cases are handled in a manner that provides adequate protection to the children of this state, at which time the commission shall cease to exist.

(2) The reports described in subdivision (e)(1) shall be submitted to the governor; the judiciary committees of the senate and the house of representatives; the general welfare, health and human resources committee of the senate; the children and family affairs committee of the house of representatives; and the select committee on children and youth.

Section 37-3-803.

(a) The commission shall be co-chaired by: one (1) member of the Tennessee senate and one (1) member of the Tennessee house of representatives.

(b) Members of the commission shall be as follows:

(1) The director of the Tennessee bureau of investigation or the director's designee;

(2) The executive director of the commission on children and youth or the director's designee;

(3) The executive director of the select committee on children and youth or the director's designee;

(4) Two (2) members of the house of representatives to be appointed by the speaker of the house of representatives;

(5) Two (2) senators to be appointed by the speaker of the senate;

(6) A law enforcement officer appointed by the governor;

(7) The executive director of Tennessee's chapter of children's advocacy center's or the director's designee;

(8) The commissioner of the department of children's services or the commissioner's designee;

(9) A district public defender appointed by the district public defenders conference;

(10) A district attorney general appointed by the district attorneys general conference;

(11) The director of the administrative office of the courts or the director's designee;

(12) A physician with experience conducting child sexual abuse medical exams, appointed by the commission's co-chairs;

(13) An attorney with recognized expertise representing children in child abuse and neglect proceedings, appointed by the commission's co-chairs; and

(14) Two (2) individuals with experience as advocates for children from the nonprofit sector, appointed by the commission's co-chairs.

#### Section 37-3-804.

(a) All members of the commission shall be voting members. All vacancies shall be filled by the appointing or designating authority in accordance with the requirements of § 37-3-803.

(b) The members of the commission shall receive no salary; provided that, members of the commission shall be reimbursed necessary travel and per diem expenses as prescribed in the comprehensive travel regulations by the commissioner of finance and administration for employees of the state of Tennessee.

#### Section 37-3-805.

The commission shall meet as necessary to transact business; provided, that meetings shall be held at least quarterly and the first meeting shall be no later than September 1, 2009. The commission shall meet at such time and place as determined by the chair members announced at least one (1) month in advance of meetings with notice to each member. Written minutes shall be kept of all meetings and all research

shall be organized and consolidated for future reference. At all meetings, nine (9) members shall constitute a quorum for the transaction of business.

Section 37-3-806.

The child advocacy center directors or their designees, the department of children's services, the district attorney general of each judicial district, and any other state agencies shall:

(1) Submit to the commission, in accordance with the procedures and deadlines established by the commission, information and data requested by the commission concerning the cases described in § 37-3-802(c);

(2) Testify, as requested by the commission, regarding any of the cases described in § 37-3-802(c); and

(3) Make recommendations, if any, and advocate for system improvements and resources where gaps and deficiencies may exist in the various systems involved in protecting children from sexual abuse.

Section 37-3-807.

(a) The commission may access and generate information made confidential pursuant to § 37-1-612; however, such information shall retain its confidential status.

(b) Meetings of the commission shall be subject to the provisions of title 8, chapter 44, part 1. However, the commission may elect, by a two-thirds (2/3) vote, to close any meeting for purposes of discussing information made confidential pursuant to state or federal law or for purposes of discussing information that could jeopardize a pending criminal action. Any minutes or other information generated during official meetings shall be sealed from public inspection.

(c) Notwithstanding the provisions of subsection (b), the commission may periodically make available, in a general manner, not revealing confidential information about children and families, the aggregate findings of its reviews and its recommendations.

(1) All otherwise confidential information and records acquired by the commission in the exercise of its duties are confidential, are not subject to

discovery or introduction into evidence in any proceedings, and may only be disclosed as necessary to carry out the purposes of this part.

(2) This subsection (c) shall not, however, prohibit a person from testifying in a civil or criminal action about matters within that person's independent knowledge.

(d) Each statutory member of the commission and each person otherwise attending a commission meeting shall sign a statement indicating an understanding of and adherence to the confidentiality requirements, including the possible civil or criminal consequences of any breach of confidentiality.

Section 37-3-808.

To the extent that funds are available, the commission may hire additional staff or consultants to assist the commission in completing its duties.

Section 37-3-809.

Any person acting in good faith in compliance with this part shall be immune from civil and criminal liability arising from such action.

Section 37-3-810.

Nothing in this part shall preclude any investigations or reviews to the extent authorized by other laws.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.